

# HOUSE BILL No. 1725

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 2-3.5; IC 5-10.2-3-1; IC 5-10.3-7-1.

**Synopsis:** Legislator pension benefits. Closes the legislators' retirement system to a member of the general assembly who is elected or appointed after November 3, 2008. Eliminates employee and employer contributions to the legislators' defined contribution plan after June 30, 2007. Requires a member of the general assembly who serves after November 3, 2008, to become a member of the public employees' retirement fund (PERF).

**Effective:** July 1, 2007.

**Robertson**

January 26, 2007, read first time and referred to Committee on Rules and Legislative Procedures.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## HOUSE BILL No. 1725

A BILL FOR AN ACT to amend the Indiana Code concerning the general assembly.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 2-3.5-1-2, AS AMENDED BY P.L.2-2006,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2007]: Sec. 2. (a) A member of the general assembly who is  
4 serving on April 30, 1989, may elect to become a participant in both  
5 the defined benefit plan and the defined contribution plan of the  
6 legislators' retirement system, as provided by IC 2-3.5-3-1. If such a  
7 member does not elect to become a participant in the legislators'  
8 retirement system, that member is not affected by this article and is  
9 instead covered by IC 5-10.2, IC 5-10.3, and IC 5-10.4.  
10 (b) **This subsection applies to a member of the general assembly**  
11 **who, as a member of the general assembly, was a participant in**  
12 **PERF before May 1, 1989.** Notwithstanding IC 5-10.3-7-2, ~~or any~~  
13 ~~other law~~, a member of the general assembly who is a participant in the  
14 legislators' defined benefit plan shall also be a member of PERF or  
15 TRF while serving in another position covered by PERF or TRF.  
16 However, the following provisions apply to a participant who is also a  
17 member of PERF or TRF:

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(1) The PERF board or TRF board shall include the participant's years of service in the general assembly in the determination of eligibility for benefits under PERF or TRF.

(2) ~~Except as provided~~ In **accordance with** subdivision (4), the PERF board or TRF board shall not include in the computation of benefits from PERF or TRF the participant's:

(A) salary as a member of the general assembly; or

(B) years of service as a member of the general assembly;

**after July 1, 1989, and before November 4, 2008.**

(3) The participant is not required to make annuity contributions to PERF or TRF for service as a member of the general assembly after July 1, 1989, **and before November 4, 2008.**

(4) IC 5-10.2-4-3.1 and the special provisions for members of the general assembly in IC 5-10.2-3-7.5, IC 5-10.3-7-3, IC 5-10.3-7-7, IC 5-10.3-8-2, IC 5-10.4-5-7, and IC 20-28-10-16 do apply to the determination of the participant's benefits under PERF and TRF for benefits earned before July 1, 1989, **or after November 3, 2008.** IC 5-10.2-4-3.1 and the special provisions for members of the general assembly in IC 5-10.2-3-7.5, IC 5-10.3-7-3, IC 5-10.3-7-7, IC 5-10.3-8-2, IC 5-10.4-5-7, and IC 20-28-10-16(b) do not apply to the determination of the participant's benefits under PERF or TRF for benefits earned after June 30, 1989, **and before November 4, 2008.**

**(c) This subsection applies to a member of the general assembly who:**

(1) serves as a member of the general assembly after November 3, 2008; and

(2) is also a member of PERF or TRF while serving in another position covered by PERF or TRF.

**The member is entitled to use salary that is received for service in the general assembly after November 3, 2008, and years of service as a member of the general assembly after November 3, 2008, in the determination of eligibility for or the computation of benefits from PERF or TRF.**

SECTION 2. IC 2-3.5-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. A member of the general assembly who is elected or appointed to the general assembly for the first time after April 30, 1989, **and before November 4, 2008,** is a participant in the defined contribution plan of the legislators' retirement system.

SECTION 3. IC 2-3.5-1-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1, 2007]: **Sec. 3.5. A member of the general assembly who is elected or appointed to the general assembly for the first time after November 3, 2008:**

**(1) may not be a participant in the legislators' retirement system; and**

**(2) is a member of PERF.**

SECTION 4. IC 2-3.5-1-4, AS AMENDED BY P.L.2-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) A member of the general assembly who:

(1) served as a member of the general assembly before April 30, 1989;

(2) was not serving as a member of the general assembly on April 30, 1989; and

(3) is subsequently elected or appointed to the general assembly **after April 30, 1989, and before November 4, 2008;**

is a participant in the defined contribution plan of the legislators' retirement system.

(b) The PERF and TRF benefits earned by a participant described in subsection (a) before July 1, 1989, for service as a member of the general assembly or in another covered position, are not affected by this article. However, the following provisions apply to such a participant who is also a member of PERF or TRF:

(1) The PERF board or TRF board shall include the participant's years of service in the general assembly in the determination of eligibility for benefits under PERF or TRF.

(2) The PERF board or TRF board shall not include in the computation of benefits from PERF or TRF the participant's:

(A) salary as a member of the general assembly that is received after July 1, 1989, **and before November 4, 2008;** or

(B) years of service as a member of the general assembly after July 1, 1989, **and before November 4, 2008.**

(3) The participant is not required to make annuity contributions to PERF or TRF for service as a member of the general assembly after July 1, 1989, **and before November 4, 2008.**

(4) If IC 5-10.2-4-3.1 or any of the special provisions for members of the general assembly in IC 5-10.2-3-7.5, IC 5-10.3-7-3, IC 5-10.3-7-7, IC 5-10.3-8-2, IC 5-10.4-5-7, and IC 20-28-10-16 applied to the determination of the participant's benefits under PERF or TRF before July 1, 1989, **or after November 3, 2008,** those provisions do not apply to the determination of the participant's benefits under PERF or TRF for benefits earned after July 1, 1989, **and before November 4, 2008.**

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(c) A member of the general assembly who:

(1) served as a member of the general assembly before November 4, 2008;

(2) was a participant in the legislators' retirement system;

(3) was not serving as a member of the general assembly on November 4, 2008; and

(4) is subsequently elected or appointed to the general assembly after November 3, 2008;

becomes a member of PERF for benefits earned for service as a member of the general assembly after November 3, 2008.

SECTION 5. IC 2-3.5-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. "Service" means the period beginning on the day a participant first became a member of the general assembly ~~whether that date is before, on, or after July 1, 1989;~~ and ending on **the earlier of:**

(1) the date ~~under consideration~~ **the participant last served as a member of the general assembly; or**

**(2) November 3, 2008;**

including all intervening employment as a member of the general assembly, following resignation or expiration of a term of election or appointment.

SECTION 6. IC 2-3.5-3-1, AS AMENDED BY P.L.2-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) This chapter applies to:

(1) each member of the general assembly who is serving on April 30, 1989, and who files an election under subsection (b); and

(2) each member of the general assembly who is elected or appointed after April 30, 1989, **and before November 4, 2008.**

(b) A member of the general assembly who is serving on April 30, 1989, may elect to have the member's years of service in the general assembly covered by this chapter, IC 2-3.5-4, and IC 2-3.5-5 instead of IC 5-10.2, IC 5-10.3, and IC 5-10.4. An election under this subsection:

(1) must be made in writing;

(2) must be filed with the PERF board on a form prescribed by the board;

(3) must be made before January 1, 1990; and

(4) is irrevocable.

(c) Notwithstanding subsection (b), if a member of the general assembly files an election under subsection (b), the PERF board or the TRF board shall include all of the member's years of service in the general assembly in the determination of eligibility for benefits under PERF or TRF. However, ~~except as provided by~~ **in accordance with**

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IC 2-3.5-1-2(b), the PERF board or TRF board shall not include in the computation of benefits from PERF or TRF the member's:

- (1) salary as a member of the general assembly received after April 30, 1989, **and before November 4, 2008**; or
- (2) years of service as a member of the general assembly after April 30, 1989, **and before November 4, 2008**.

**(d) Notwithstanding subsection (b), a member of the general assembly who made an election described in subsection (b) and serves as a member of the general assembly after November 3, 2008:**

- (1) may not earn benefits as a participant in the legislators' retirement system for service after November 3, 2008, as a member of the general assembly; and**
- (2) becomes a member of PERF for benefits earned for service after November 3, 2008, as a member of the general assembly.**

SECTION 7. IC 2-3.5-3-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1.5. A member of the general assembly who is elected or appointed to the general assembly for the first time after November 3, 2008:**

- (1) may not be a participant in the legislators' retirement system; and**
- (2) is a member of PERF.**

SECTION 8. IC 2-3.5-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1. (a) This chapter applies to each member of the general assembly who:**

- (1) is serving on April 30, 1989; and**
- (2) files an election under IC 2-3.5-3-1(b).**

**(b) Notwithstanding the member's election under IC 2-3.5-3-1(b), unless otherwise provided under this article, a member of the general assembly described in subsection (a) who is serving on November 4, 2008, may not include in the computation of benefits from the legislators' defined benefit plan:**

- (1) salary that is received for service in the general assembly after November 3, 2008; or**
- (2) years of service earned as a member of the general assembly after November 3, 2008.**

**(c) Notwithstanding the member's election under IC 2-3.5-3-1(b), a member of the general assembly described in subsection (a) who serves in the general assembly after November 3, 2008, becomes a member of PERF for benefits earned for service in the general assembly after November 3, 2008.**

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SECTION 9. IC 2-3.5-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. The monthly retirement benefit payable for life to a participant who is eligible under section 2 of this chapter is the lesser of:

(1) forty dollars (\$40) multiplied by the total years of service completed by the participant as a member of the general assembly before November 8, 1989; or

(2) the highest consecutive three (3) year average annual salary of the participant attributable to the participant's service as a legislator, as reported on the participant's W-2 federal income tax withholding statement and determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code, at the **earlier of:**

**(A) the date the participant's service as a member of the general assembly is terminated; or**

**(B) November 3, 2008;**

divided by twelve (12).

SECTION 10. IC 2-3.5-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) This chapter applies to:

(1) each member of the general assembly who is serving on April 30, 1989, and who files an election under IC 2-3.5-3-1(b); and

(2) each member of the general assembly who is elected or appointed after April 30, 1989, **and before November 4, 2008.**

**(b) A member of the general assembly who is elected or appointed to the general assembly for the first time after November 3, 2008:**

**(1) may not be a participant in the legislators' defined contribution plan; and**

**(2) is a member of PERF.**

SECTION 11. IC 2-3.5-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The defined contribution fund consists of the following:

(1) Each participant's contributions to the fund **before July 1, 2007.**

(2) Contributions made **before July 1, 2007**, to the fund on behalf of the participants under section 5 of this chapter.

(3) Amounts transferred to the fund under subsections (b) and (c).

(4) All gifts, grants, devises, and bequests in money, property, or other form made to the fund.

(5) All earnings on investments or on deposits of the funds.

(6) All contributions or payments to the fund made in a manner

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provided by the general assembly.

(b) On any July 1 following the date a participant begins participation in the defined contribution fund, if the participant has been before that date a member of PERF, any amount in the PERF annuity savings account credited to the participant may at the participant's irrevocable option be transferred one (1) time to the defined contribution fund for the benefit of the participant. At no other time, if the participant continues or begins to participate in PERF, may such a transfer be made.

(c) On any July 1 following the date a participant begins participation in the defined contribution fund, if the participant has been before that date a member of TRF, the amount in the TRF annuity savings account credited to the participant may at the participant's irrevocable election be transferred one (1) time to the defined contribution fund for the benefit of the participant. At no other time, if the participant continues or begins to participate in TRF, may the transfer be made.

(d) Each participant shall be credited individually with:

- (1) the participant's contributions to the fund under section 4 of this chapter **before July 1, 2007**, which shall be credited to the participant's account;
- (2) the contributions made to the fund on behalf of the participant under section 5 of this chapter **before July 1, 2007**, which shall be credited to the participant's account;
- (3) the amount transferred to the fund under subsections (b) and (c), which shall be credited to the participant's account; and
- (4) the net earnings on the participant's accounts, determined under section 3 of this chapter.

SECTION 12. IC 2-3.5-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. **(a)** Each participant shall make contributions to the defined contribution fund of five percent (5%) of each payment of salary received for services after June 30, 1989, **and before July 1, 2007**. Contributions shall be deducted from the salary of each participant by the auditor of state. Contributions shall be credited to the fund on the June 30 following their deduction.

**(b) A participant may not make a contribution to the defined contribution fund after June 30, 2007.**

SECTION 13. IC 2-3.5-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. **(a)** The state shall make contributions to the defined contribution fund on behalf of each participant on June 30 of each year. The amount of these contributions must equal twenty percent (20%) of the annual salary received in that

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year by each participant for services after June 30, 1989, **and before July 1, 2007.**

**(b) The state may not make a contribution to the defined contribution fund on behalf of a participant after June 30, 2007.**

SECTION 14. IC 2-3.5-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) For purposes of this chapter, there is appropriated for each biennium ~~the following sums of money:~~

(1) From the state general fund, the amount required to equal the contributions specified in section 5 of this chapter.

(2) from the state general fund the amount required for administration of this chapter.

(b) The biennial appropriation provided in this section shall be credited to the defined contribution fund annually in the month of July of each year of the biennium, based on the ~~amounts~~ **amount** specified in subsection (a).

SECTION 15. IC 5-10.2-3-1, AS AMENDED BY P.L.2-2006, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Each member's creditable service, for the purpose of computing benefits under this article, consists of all service in a position covered by a retirement fund plus all other service for which the retirement fund law gives credit.

(b) No member may be required to pay any contributions for service before the member is covered by this article as a condition precedent to receiving benefits under this article. However, the member must furnish proof of the service to the board of the fund under which the member claims service.

(c) A member who has past service as an employee of the state or a participating political subdivision in a position which was not covered by the retirement fund is entitled to credit for this service if the position becomes covered before January 1, 1985, by the Indiana state teachers' retirement fund, the public employees' retirement fund, or the retirement fund for the state board of accounts and if the member submits proof of the service to the secretary of the fund in which the member claims service.

(d) A member who has past service in a position that was not covered by the retirement fund is entitled to credit for this service if the position becomes covered after December 31, 1984, by a fund while the member holds that position or another position with the same employer and if the member submits proof of the service to the director of the fund in which the member claims service.

(e) The proof required by this section must:

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- (1) be submitted in a form approved by the director;
- (2) contain dates and nature of service and other information required by the director; and
- (3) be certified by the governing body or its agent.

(f) A member who is a state employee is entitled to service credit for the time the member is receiving disability benefits under a disability plan established under IC 5-10-8-7.

(g) If a participant in the legislators' defined benefit plan does not become entitled to a benefit from that plan, the PERF board or the TRF board shall include the participant's service in the general assembly **after June 30, 1989, and before November 4, 2008**, in the determination of eligibility for, and computation of, benefits under PERF or TRF at the time the participant would be eligible to receive benefits under PERF or TRF. After benefits commence under PERF or TRF with the general assembly service included, the participant's general assembly service may not be used for the computation of benefits under IC 2-3.5-4.

(h) A member may receive service credit for all or a part of the member's creditable service in another governmental retirement plan under IC 5-10.3-7-4.5 and IC 5-10.4-4-4. A member may not receive credit for service for which the member receives service credit in another retirement plan maintained by a state, a political subdivision, or an instrumentality of the state for service that PERF or TRF would otherwise give credit.

(i) A member may use all or a part of the member's creditable service under PERF or TRF in another governmental retirement plan under the terms of the other plan. Creditable service used under the other governmental retirement plan may not be used in PERF or TRF.

SECTION 16. IC 5-10.3-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) This section does not apply to

- ~~(1) members of the general assembly; or~~
- ~~(2) employees covered by section 3 of this chapter.~~

(b) An employee of the state or of a participating political subdivision who:

- (1) became a full-time employee of the state or of a participating political subdivision in a covered position; and
- (2) had not become a member of the fund;

before April 1, 1988, shall on April 1, 1988, become a member of the fund unless the employee is excluded from membership under section 2 of this chapter.

(c) Any individual who becomes a full-time employee of the state

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or of a participating political subdivision in a covered position after March 31, 1988, becomes a member of the fund on the date the individual's employment begins unless the individual is excluded from membership under section 2 of this chapter.

(d) For the purposes of this section, "employees of the state" includes:

- (1) employees of the judicial circuits whose compensation is paid from state funds;
- (2) elected and appointed state officers;
- (3) prosecuting attorneys and deputy prosecuting attorneys of the judicial circuits, whose compensation is paid in whole or in part from state funds, including participants in the prosecuting attorneys retirement fund established under IC 33-39-7;
- (4) employees in the classified service;
- (5) employees of any state department, institution, board, commission, office, agency, court, or division of state government receiving state appropriations and having the authority to certify payrolls from appropriations or from a trust fund held by the treasurer of state or by any department;
- (6) employees of any state agency which is a body politic and corporate;
- (7) employees of the board of trustees of the public employees' retirement fund;
- (8) persons who:
  - (A) are employed by the state;
  - (B) have been classified as federal employees by the Secretary of Agriculture of the United States; and
  - (C) are excluded from coverage as federal employees by the federal Social Security program under 42 U.S.C. 410;
- (9) the directors and employees of county offices of family and children; and
- (10) employees of the center for agricultural science and heritage (the barn).

**(e) Notwithstanding section 2(4) or 2(6) of this chapter, a member of the general assembly who:**

- (1) serves as a member of the general assembly after November 3, 2008; and**
- (2) is not a member of the fund for service as a member of the general assembly under another provision of this article or IC 5-10.2;**

**becomes a member of the fund for service as a member of the general assembly after November 3, 2008.**

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1       SECTION 17. [EFFECTIVE JULY 1, 2007] (a) This act does not  
 2       prohibit a participant (or a beneficiary, surviving spouse, or  
 3       surviving dependent of a participant) in the legislators' retirement  
 4       system who otherwise qualifies to receive:

5           (1) before November 4, 2008, a benefit from the legislators'  
 6           retirement system;

7           (2) after November 3, 2008, a benefit from the legislators'  
 8           retirement system after the participant meets the age and  
 9           service requirements under IC 2-3.5-4; or

10          (3) after November 3, 2008, a benefit or withdrawal from the  
 11          legislators' retirement system because of a participant's death  
 12          or disability;

13       from receiving a benefit from the legislators' retirement system  
 14       after November 3, 2008, for as long as the participant (or the  
 15       beneficiary, surviving spouse, or surviving dependent of a  
 16       participant) qualifies to receive the benefit from the legislators'  
 17       retirement system.

18       (b) This act does not prohibit a participant in the legislators'  
 19       defined contribution plan before November 4, 2008, from taking  
 20       any of the following actions, as provided under IC 2-3.5-5, after  
 21       November 3, 2008:

22           (1) Making or changing investment selections or allocations.

23           (2) Electing to receive withdrawals and selecting the form in  
 24           which the withdrawals are made.

25           (3) Receiving and repaying loans.

26           (4) Otherwise taking any action necessary to manage the  
 27           participant's accounts.

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